

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSE GUTIERREZ,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CIVIL ACTION NO. 3:CV-12-2597

(JUDGE CAPUTO)

(MAGISTRATE JUDGE CARLSON)

MEMORANDUM ORDER

On December 27, 2012, Plaintiff Jose Gutierrez filed the Complaint in this action. The case was referred to Magistrate Judge Carlson. On December 28, 2012, Magistrate Judge Carlson issued a Report and Recommendation (Doc. 4) recommending that Plaintiff be granted leave to proceed *in forma pauperis* and that the Complaint be dismissed without prejudice. Objections to the Report and Recommendation were due on January 14, 2013. No objections were filed.

Instead, however, on January 7, 2013, Plaintiff filed an Amended Complaint. (Doc. 6.) In light of this new filing, **IT IS HEREBY ORDERED** that:

- (1) The Report & Recommendation (Doc. 4) is **ADOPTED**.
- (2) Plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 2) is **GRANTED**.
- (3) The original Complaint (Doc. 1) is **DISMISSED**.
- (4) The matter is **RECOMMITTED** to Magistrate Judge Carlson for consideration of the Amended Complaint. (Doc. 6.)

Date January 24, 2013


A. Richard Caputo
United States District Judge